

arise, in connection with any provisions of this agreement or any regulation issued thereunder, or

(b) Release or extinguish any violation of this agreement or any regulation issued thereunder, or

(c) Affect or impair any rights or remedies of the Secretary, or of any other persons, with respect to such violation.

#### § 998.60 Counterparts.

This agreement may be executed in multiple counterparts and, when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

#### § 998.61 Additional parties.

After the effective date of this agreement, any handler may become a party hereto if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and such party has complied with assessment obligations and the quality regulations applicable to the current crop. The benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting part.

#### IMPLEMENTING REGULATIONS

#### § 998.100 Incoming quality regulation for 1996 and subsequent crop peanuts.

The following modify § 998.5 of the peanut marketing agreement and modify or are in addition to the restrictions of section 31 on handler receipts or acquisitions of peanuts:

(a) *Modification of § 998.5, paragraphs (b), (c), and (d).* Paragraphs (b), (c), and (d) of § 998.5 of the peanut marketing agreement are modified for the purposes of this section as to farmers stock peanuts to read respectively as follows:

(b) *Segregation 1. Segregation 1 peanuts* means farmers stock peanuts with not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(c) *Segregation 2. Segregation 2 peanuts* means farmers stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(d) *Segregation 3. Segregation 3 peanuts* means farmers stock peanuts with visible *Aspergillus flavus*.

(b) *Moisture and foreign material—(1) Moisture.* Except as provided under paragraph (d) of this section, no handler shall receive or acquire peanuts containing more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storing or milling. On farmers stock, such moisture determinations shall be rounded to the nearest whole number; on shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(2) *Foreign material.* No handler shall receive or acquire farmers stock peanuts containing more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be received or acquired if they are held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term *sand-screen* means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Seed peanuts.* A handler may acquire and deliver for seed purposes farmers stock peanuts which meet the requirements of Segregation 1 peanuts. If the seed peanuts are produced under the auspices of a State agency which regulates or controls the production of seed peanuts, they may contain up to 3 percent damaged kernels and have visible *Aspergillus flavus*, and, in addition, the following moisture content, as applicable:

(1) Seed peanuts produced in the Southeastern and Virginia-Carolina areas, may contain up to 10.49 percent moisture except Virginia type peanuts which are not stacked at harvest time

may contain up to 11.49 percent moisture; and

(2) Seed peanuts produced in the Southwestern area may contain up to 10.49 percent moisture.

Any seed peanuts produced under the auspices of a State agency which contain up to 3 percent damaged kernels and are free from visible *Aspergillus flavus*, may be stored and shelled with Segregation 1 seed peanuts which are also produced under the auspices of the State agency. Any seed peanuts with visible *Aspergillus flavus* shall be stored and shelled separate from other peanuts, and any residuals not used for seed shall not be used or disposed of for human consumption unless it is determined to be wholesome by chemical assay for aflatoxin. A handler whose operations include custom shelling may receive, custom shell, and deliver for seed purposes farmers stock peanuts, and such peanuts shall be exempt from the Incoming Quality Regulation requirements, and, therefore, shall not be required to be inspected and certified as meeting the Incoming Quality Regulation requirements, and the handler shall report to the Committee, as requested, the weight of each lot of farmers stock peanuts received on such basis on a form furnished by the Committee. Handlers who acquire seed peanut residuals from their custom shelling of uninspected (farmers stock) seed peanuts or from another producer or sheller may mill such residuals with other receipts or acquisitions of the handler, and such residuals which meet the Outgoing Quality Regulation requirements, may be disposed of by sale to human consumption outlets.

(e) *Oilstock*. Handlers may acquire for disposition to domestic crushing or export farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of § 998.31 of the marketing agreement restricting acquisitions of such peanuts to handlers who are crushers is hereby modified pursuant to § 998.34, to authorize all handlers to act as accumulators and acquire, from other handlers or non-handlers, Segregation 2 or 3 farmers stock peanuts. Handlers may also acquire for crushing

or export from other handlers peanuts originating from Segregation 2 or 3 farmers stock or the entire mill production of shelled peanuts from Segregation 1 farmers stock or lots of peanuts originating from Segregation 1 peanuts and which have been positive lot identified as specified in paragraph (d) of § 998.200, Outgoing quality regulation, which failed to meet the requirements for human consumption pursuant to paragraph (a) of § 998.200, Outgoing quality regulation: *Provided*, That all such acquisitions are held separate from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts. Handlers may commingle the Segregation 2 and 3 peanuts or keep them separate and apart. Handlers who acquire farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption shall report such acquisitions as prescribed by the Committee. To be eligible to receive or acquire Segregation 2 or 3 farmers stock peanuts and shelled peanuts originating therefrom, a handler shall pay to the Area Association a fee for the purpose of covering cost of supervision of the disposition of such peanuts.

(f) *Segregation 2 and 3 control*. To assure the removal from edible outlets of any lot of peanuts determined by Federal or Federal-State Inspection Service to be Segregation 2 or Segregation 3, each handler shall inform each employee, country buyer, commission buyer, or like person through whom the handler receives peanuts of the need to receive and withhold all lots of Segregation 2 and Segregation 3 peanuts from milling for edible use. If any lot of Segregation 2 or Segregation 3 farmers stock peanuts is not withheld but returned to the producer, the handler shall cause the Inspection Service to forward immediately a copy of the inspection certificate on the lot to the designated office of the handler and a copy to the Committee which shall be used only for information purposes.

(g) *Farmers stock storage and handling facilities*. Handlers shall report to the Committee, on a form furnished by the Committee, all storage facilities or

contract storage facilities which they will use to store acquisitions of current crop Segregation 1 farmers stock peanuts, and all such storage facilities must be reported prior to storing of any such handler acquisitions. Handlers shall also report to the Committee the locations at which they will receive or acquire current crop farmers stock peanuts. All such storage facilities shall have reasonable and safe access to allow for inspection of the facility and its contents. All such storage facilities must be of sound construction, in good repair, and built and equipped so as to provide suitable storage and sufficient safeguards to prevent moisture condensation and provide adequate protection for farmers stock peanuts. All breaks or openings in the walls, floors, or roofs of the facilities shall have been repaired so as to keep out moisture. Elevator pits and wells must be kept dry and free of moisture at all times. Insect control procedures must be carried out in such a manner as to prevent undesirable moisture in the storage facilities. Any conditions in warehouses, elevators, pits, transportation equipment, including trucks and hopper cars, and other farmers stock handling equipment conducive to the growth or spread of *Aspergillus flavus* mold shall be corrected to the satisfaction of the Committee.

The Committee may make periodic inspections of farmers stock storage and handling facilities and farmers stock peanuts stored in such facilities to determine if handlers are adhering to these requirements.

(h) *Shelled peanuts*. Handlers may acquire shelled peanuts, which originated from "Segregation 1 peanuts," from other handlers, for remilling and subsequent disposition to human consumption outlets.

(i) Segregation 2 and Segregation 3 farmers stock peanuts held separate and apart or commingled, and disposed of to domestic or export crushing are exempt from assessments under this section.

[62 FR 1265, Jan. 9, 1997]

**§ 998.200 Outgoing quality regulation for 1996 and subsequent crop peanuts.**

The following modify or in addition to the peanut marketing agreement restrictions of § 998.32 on handler disposition of peanuts:

(a) *Shelled peanuts*. (1) No handler shall ship or otherwise dispose of shelled peanuts for human consumption unless such peanuts are positive lot identified, certified "negative" as to aflatoxin, and certified as meeting the requirements in the following "Other Edible Quality \* \* \*" grades:

TABLE 1—"OTHER EDIBLE QUALITY" (NON-INDEMNIFIABLE) GRADES—WHOLE KERNELS AND SPLITS

Type and grade category	Unshelled peanuts and damaged kernels (per-cent)	Unshelled peanuts damaged kernels and minor defects (percent)	Fall through			Foreign materials (per-cent)	Moisture (per-cent)
			Sound split and broken kernels	Sound whole kernels	Total		
Excluding lots of "splits"							
Runner .....	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 15/64x3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (except No. 2).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 15/64x1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia.	1.50	2.50	3.00%; 15/64 inch; round screen.	3.00%; 15/64x3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
No. 2 Virginia .....	1.50	3.00	6.00%; 17/64 inch; round screen.	6.00%; 15/64x1 inch; slot screen.	6.00%; both screens.	.20	9.00
Lots of "splits"							
Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64x3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (not less than 90% splits).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64x1 inch; slot screen.	4.00%; both screens.	.20	9.00